

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-17, 19-28, 48-60, 62 and 64-66 are pending in the application. Claims 1-2, 4-12, 15-16, 26, 48-49, 51-58, 60 and 64-66 are amended; and Claims 18, 29-47, 61 and 63 are canceled without prejudice or disclaimer by the present amendment. Support for the amended claims can be found in the original specification, claims and drawings.<sup>1</sup> No new matter is presented.

In the Office Action, the specification was objected to because of a minor informality, Claims 1-12, 29-40 and 48-59 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as unpatentable over Claim 3 of Application No. 11/057,256; Claims 17, 27, 43 and 62 were rejected under 35 U.S.C. § 112, second paragraph; Claims 29-47 were rejected under 35 U.S.C. § 101; Claims 1-9, 13-16, 18-26, 28-36, 40-42, 44-55, 59-61 and 63-66 were rejected under 35 U.S.C. § 102(e) as anticipated by Turnbull (U.S. Pub. 2003/0041127); Claims 10-12, 37-39 and 56-58 were rejected under 35 U.S.C. § 103(a) as unpatentable over Turnbull in view of Kanai et al. (U.S. Pub. 2001/0002472, herein Kanai); and Claims 17, 27, 43 and 62 were rejected under 35 U.S.C. § 103(a) as unpatentable over Turnbull in view of Morrow et al. (U.S. Pub. 2002/0019891, herein Morrow).

With regard to the non-statutory double patenting rejection of Claims 1-12, 29-40 and 48-59, this rejection is respectfully traversed in light of the Terminal Disclaimer submitted herewith.

The filing of a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The “filing of a

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<sup>1</sup> E.g., Spec., Figs. 1 and 3, and their corresponding description in the specification.

Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.” *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants’ filing of the attached Terminal Disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

The Office Action objected to the specification for using the term “Java” noting that “it should be capitalized or properly attributed wherever it appears, and be accompanied by the generic terminology.”

In response, a substitute specification is provided in which all instances of the term “Java” have been capitalized. Applicant also notes MPEP § 608.01(c) which states that names in trade are permissible in patent applications if “in this country, their meanings are well-known and satisfactorily defined in the literature.” With regard to this requirement, Applicant submits that one of ordinary skill in the art would know that the term “Java” refers to a specific type of object oriented programming, and is therefore well-known and satisfactorily defined in any literature corresponding thereto.

Accordingly, Applicant respectfully requests that the objection to the specification be withdrawn.

The Office Action rejected Claims 17, 27, 43 and 62 under 35 U.S.C. § 112, second paragraph, as indefinite for containing the trademark “Java.” Applicants respectfully traverse this rejection.

The Office Action, as a basis for this rejection, notes that the claim scope is uncertain “since the trademark or trade name cannot be used properly to identify any particular material or product.” In the present claims, however, the term “Java” is used to identify a particular product or, more specifically, an object oriented coded language known in the art. The usage

of the term “Java” in the claims does not refer to a source of the coding language, but instead is used to refer to the Java coding language. Therefore, since the term does refer to a specific product or coding language, and not a source of a product, the scope of Claims 17, 27, 43 and 62, which include the term “Java,” is clearly defined.

Accordingly, Applicants respectfully requests that the rejection of Claims 17, 27, 43 and 62 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claims 29-47 were rejected under 35 U.S.C. § 101, as directed to non-statutory subject matter. Claims 29-47 are canceled by the present amendment thereby rendering this rejection moot.

Claims 1-9, 13-16, 18-26, 28-36, 40-42, 44-55, 59-61 and 63-66 were rejected under 35 U.S.C. § 102(e) as anticipated by Turnbull. In response to this rejection, Applicants respectfully submit that amended independent Claims 1, 15, 26, 48 and 60 recite novel features clearly not taught or rendered obvious by the applied references.

Independent Claim 1, for example, is directed to an image forming apparatus, comprising:

- a control part configured to provide common services on control of hardware resources to a plurality of first applications that are executed in the image forming apparatus using the common services provided by the control part;

- a virtual machine that is executed as one of the first applications;
- a second application that is executed by the virtual machine; and
- an application management part managing the second application that is executed by the virtual machine.

Independent Claims 26 and 48, while directed to alternative embodiments, are amended to recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 26 and 48.

As depicted in an exemplary embodiment in Figs. 1 and 3 of the specification, the image forming apparatus includes a control part (e.g., platform 120) configured to provide the

common services on control of hardware resources to a plurality of first applications (e.g., application 130). A virtual machine (e.g., virtual machine 202) is executed as one of the first applications and a second application (e.g., Java application 117) is executed by the virtual machine. An application management part (e.g., application management part 204) manages the second application that is executed by the virtual machine.

Turning to the applied reference, Turnbull describes a system and method for upgrading firmware and other device specific software such as device drivers on computing devices. More particularly, Turnbull describes an applet or small application program 314, installed on the computer device is configured to automatically determine when a firmware upgrade is available for the device and to install the upgrade onto the device.<sup>2</sup>

Turnbull, however, fails to teach or suggest an image forming apparatus having the configuration required by amended independent Claim 1. More particularly, Turnbull merely describes an upgrade applet 314 which is configured to search the computing device to determine the current firmware and/or device driver version installed on the device. During an upgrade search, current versions of software or firmware are compared to any upgrades that are located to determine if the upgrades will provide a newer firmware or device driver version and is currently installed on the computing device.<sup>3</sup> Thus, Turnbull merely describes a software applet that searches for and retrieves firmware and software updates for a computing device.

Turnbull, however, fails to teach or suggest an image forming apparatus that includes “a control part configured to provide common services on control of hardware resources to a plurality of first applications...a virtual machine that is executed as one of the first applications; second application that is executed by the virtual machine; and an application

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<sup>2</sup> Turnbull, paragraph [0009].

<sup>3</sup> Id.

management part managing the second application that is executed by the virtual machine,” as recited in independent Claim 1.

Independent Claim 15 is directed to a terminal apparatus that operates an image forming apparatus configured to be able to include a plurality of applications, the terminal apparatus comprising:

- a virtual machine;
- an application that is executed by the virtual machine and that operates the image forming apparatus by using classes for controlling the image forming apparatus, ***the classes including a function for displaying, on the terminal apparatus, an emulated screen of a screen displayed on an operation panel of the image forming apparatus;*** and
- an application management part managing the application that is executed by the virtual machine.

Independent Claim 60, while directed to an alternative embodiment, is amended to recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 15 and 60.

Thus, independent Claim 15 is amended to incorporate the subject matter of Claim 18 and a portion of the subject matter of Claim 16. In rejecting Claims 16 and 18 at p. 10, the Office Action appears to assert that the scope of Claims 16 and 18 are somehow similar to one of Claims 1-6 and 8. However, none of Claims 1-6 and 8 recite a terminal apparatus that includes a virtual machine that operates an image forming apparatus by using classes for controlling the image forming apparatus wherein one of the classes includes “a function for displaying ***on the terminal apparatus, an emulated screen of a screen displayed on an operation panel of the image forming apparatus,***” as recited in amended independent Claim 15.

More particularly, as noted above, Turnbull merely describes an upgrade applet 314 which operates on the computing device to determine if a more updated version of firmware or software is available for the computing device. At no point does Turnbull, teach or

suggest a terminal apparatus that operates an image forming apparatus by using classes for controlling the image forming apparatus wherein the classes include “a function for displaying, *on the terminal apparatus, an emulated screen of a screen displayed on an operation panel of the image forming apparatus,*” as recited in independent Claims 15 and 60.

Accordingly, for at least the reasons discussed above, Applicant respectfully requests that the rejection of independent Claims 1, 15, 26, 48 and 60 (and the claims that depend therefrom) under 35 U.S.C. § 102(e) be withdraw.

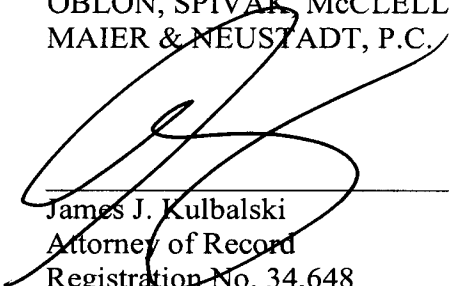
Regarding the rejection of Claims 10-12, 17, 27, 37-39, 43, 56-58, and 62 under 35 U.S.C. § 103 as unpatentable over Turnbull in view of Kanai or Morrow, it is respectfully submitted that the above-noted claims each depend from one of independent Claims 1, 15, 26, 48 and 60 and are patentable for at least the reasons discussed above. Further, Applicant respectfully submits that neither Kanai nor Morrow remedy any of the above-noted deficiencies of Turnbull.

Accordingly, Applicant respectfully requests that the rejection of Claims 10-12, 17, 27, 37-39, 43, 56-58 and 62 under 35 U.S.C. § 103 be withdrawn.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-17, 19-28, 48-60, 62 and 64-66 is definite and patentably distinguishing over the applied references. The present is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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